

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CR2009-149135-001 SE

11/24/2009

JUDGE PRO TEM JAMES T. BLOMO

CLERK OF THE COURT
L. Talbo
Deputy

STATE OF ARIZONA

ERIN A OTIS

v.

STEVEN HUGH HALPAIN II (001)

HAROLD R NEWMAN

PRETRIAL SERVICES AGENCY-CCC
VICTIM SERVICES DIV-CA-SE

MINUTE ENTRY

The defendant, Steven Halpain, is charged with one count of Sexual Assault a class 2 felony, the defendant is being held non-bondable due to the two counts of Sexual Assault. At the Defendant's Initial Appearance he was held non-bondable pursuant to A.R.S. § 13-3961. A.R.S. § 13-3961(A) states:

- A. A person who is in custody shall not be admitted to bail if the proof is evident or the presumption great that the person is guilty of the offense charged and the offense charged is one of the following:
1. A capital offense.
 2. Sexual assault.
 3. Sexual conduct with a minor who is under fifteen years of age.

Defense counsel requested a hearing pursuant to *Simpson v. Owens*, 207 Ariz. 261, 85 P.3d 478 (App. 2004) ("*Simpson*") on the issue of the defendant being held non-bondable. *Simpson* was based on the requirement that the proof is evident or presumption great that defendant committed one of the crimes enumerated in A.R.S. § 13-3961(A).

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At the hearing the State presented the testimony of Detective Scritzchfield of the Scottsdale Police Department. Detective Scritzchfield testified about the investigation, the interview with the victim and the interview with the defendant.

The Court of Appeals in *Simpson* outlined the procedures for holding and conducting *Simpson* hearings and the evidence the court should consider. The Court of Appeals also determined the burden of proof required.

The Court in *Simpson* concluded that:

the phrase “proof is evident, or presumption great” provides its own standard: The State's burden is met if all of the evidence, fully considered by the court, makes it plain and clear to the understanding, and satisfactory and apparent to the well-guarded, dispassionate judgment of the court that the accused committed one of the offenses enumerated in § 13-3961(A). In that case, bail must be denied. The proof must be substantial, but it need not rise to proof beyond a reasonable doubt.

The Court has fully considered all the evidence presented. Based on the evidence presented, there is insufficient evidence to allow the Court to find that the State has proven by proof evident or presumption great that the defendant committed count one.

Therefore, the defendant is entitled to a bond.

IT IS ORDERED setting a cash bond in the amount of \$60,000.00. If the bond is posted the defendant is to report to pre-trial services within 12 hours and is order to submit to electronic monitoring, drug and alcohol testing and curfew. In addition, the defendant is to have no contact with the victim, in person, writing, email, text, 3rd party or in any fashion.

ISSUED: Release Order